Department of Veterans Affairs

Homeless Providers Grant and Per Diem Program

Section E – Appendices

Program Rules and Regulations
VISN Contact List

VA Form
JAN 2003 10-0361-Appendix

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the amendment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Amend § 165.1319 to revise paragraph (b) to read as follows:

§ 165.1319 Safety Zone Regulations; Seafair Blue Angels Air Show Performance, Seattle, WA.

* * * * *

(b) *Location.* The following is a safety zone: All waters of Lake Washington encompassed by the following points: 47°36′17.28″ N, 122°14′49.44″ W; thence west to point 47°36′17.28″ N, 122°16′58.56″ W; thence south along the shoreline to Andrews Bay at point 47°33′04.62″ N, 122°15′32.46″ W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33′44.98″ N, 122°15′03.48″ W; thence easterly to point 47°33′43.98″ N, 122°13′51.36″ W on Mercer Island; thence northerly along the shore of Mercer Island to point 47°35′45.12″ N, 122°14′49.44″ W; thence north back to the point of origin.

* * * * *

Dated: February 9, 2013.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2013–04218 Filed 2–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 61

RIN 2900–AN81

VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with changes, the proposed rule to amend the Department of Veterans Affairs (VA) regulations concerning VA's Homeless Providers Grant and Per Diem Program (Program). This rulemaking updates and improves the clarity of these regulations, and implements and authorizes new VA policies.

DATES: *Effective Date:* This final rule is effective March 27, 2013.

FOR FURTHER INFORMATION CONTACT: Guy Liedke, VA Homeless Providers Grant and Per Diem Program Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (877) 332–0334. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 501, 2001, 2011, 2012,

2061, and 2064, the VA Homeless Providers Grant and Per Diem Program provides capital grants and per diem payments to public or nonprofit private entities that assist homeless veterans by helping to ensure the availability of supportive housing and service centers to furnish outreach, rehabilitative services, vocational counseling and training, and supportive housing. The regulations governing this program are located at title 38, Code of Federal Regulations, part 61.

In a document published in the **Federal Register** on March 1, 2012 (77 FR 12698), VA proposed to amend its regulations concerning the VA Homeless Providers Grant and Per Diem Program which are found in 38 CFR part 61.

Discussion of Comments

We provided a 60-day comment period and received two comments. One comment was supportive of the proposed definition of ''supportive housing.'' We appreciate the comment and have not made any changes based on it. Another comment was received from a health care interest group, which recommended changes to the proposed rule. A discussion of these recommendations follows.

The commenter stated that the definition of supportive housing should be amended to specifically include ''medical respite care.'' Medical respite care, as defined by the commenter, provides short term access to a bed to an individual who is recuperating from an acute injury or illness. The commenter noted that homeless adults are hospitalized more frequently than the general population, and the lack of a stable home environment following discharge negatively affects clinical outcomes. The commenter recommended changing the term ''respite'' to ''medical respite'' in the definition of supportive housing in § 61.1 to avoid confusion between what the commenter referred to as ''caregiver respite'' and ''medical respite.'' In addition, the commenter recommended incorporating into the final rule the definition of ''medical respite services'' used by the Health Resources and Services Administration (HRSA). Additionally, the commenter recommended revising the definition of supportive services to include such medical respite services that are delivered in settings other than those included in the definition of supportive housing.

Under § 61.1, ''supportive housing'' is defined in relevant part as housing that is designed to ''[p]rovide specific medical treatment such as detoxification, *respite,* or hospice treatments.'' (Emphasis added.) The word ''respite'' is used in the definition of ''supportive housing'' as being an example of ''specific medical treatment.'' The commenter suggested that the term ''respite'' is ambiguous and can somehow be confused with respite care provided to veterans with caregivers. We make no changes based on this comment because there is no meaningful difference between these types of respite care.

The commenter appears to misunderstand the nature of respite care provided through VA's caregiver benefits program under 38 CFR part 71. The commenter attempts to distinguish ''caregiver respite'' from part 61 ''respite'' care, but the distinction cannot be drawn in the manner described by the commenter. ''Caregiver respite'' is medical care provided to veterans who have caregivers as part of the medical benefits package, found at 38 CFR 17.38(a)(1)(ix), as further delineated under 38 CFR 71.25(d), 71.40(a)(4), and 71.40(c)(2). As a medical benefit, this respite care, too, could be referred to as ''medical respite care''—just like the type of respite services discussed by the commenter. It is identical in all meaningful respects to the type of care that the commenter refers to as ''medical respite services''—it is short-term medical care and case management provided to an individual who is unable to care for him/herself. In short, any distinction between ''caregiver respite'' and respite care provided under part 61 could not be made based on the insertion of the word ''medical'' before ''respite.'' The only clear distinction is that respite care provided to veterans with caregivers is not necessarily provided in an emergent situation, and we see no reason to limit respite care provided under part 61 to respite care provided in an emergent situation.

We also note that under 38 CFR 62.33(a)(2)(i), respite care is an authorized supportive service under VA's Supportive Services for Veteran Families (SSVF) program, which may be provided by SSVF grantees who are providing health care services to veteran families who recently became homeless or who are at risk of becoming homeless. There has been no confusion among SSVF grantees that such respite care may only be provided to a veteran with a caregiver, and we likewise see no potential for confusion in § 61.1. Indeed, we might create ambiguity where there currently is none if we were to refer in § 61.1 to ''medical respite care'' and in § 62.33 to ''respite care'' when both regulations describe the same medical service. Therefore, § 61.1 should not be revised to differentiate between ''caregiver respite'' and respite care provided to a homeless, seriously ill veteran.

The commenter recommended incorporating the HRSA definition of ''medical respite'' into the final rule. The HRSA definition defines ''medical respite services'' in part as ''short term medical care and case management provided to persons (generally homeless) recovering from an acute illness or injury, whose conditions would be exacerbated by living on the street, in a shelter or other unsuitable places.'' We decline to do so because, as noted above, respite care is already identified as medical care in the context of the medical benefits package, and as a type of care appropriate for homeless veterans under SSVF. In addition, the definition proposed by the commenter, by its express terms, includes persons who may not be homeless. The statutory authority for the VA Homeless Providers Grant and Per Diem Program extends only to a veteran who is homeless as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

The commenter urged us to revise the definition of supportive services, noting that medical respite services may be delivered in settings other than those included in the definition of ''supportive housing.'' The VA Homeless Providers Grant and Per Diem Program was authorized by Congress in 1992 under Public Law 102–590, which gave VA authority to provide financial support to nonprofit organizations and state and local governments to establish programs to assist the homeless veteran population. Two program parameters set by statute have remained constant since the inception of this program: (1) Providing support services in the context of housing for homeless veterans; and (2) doing so via capital grants to eligible organizations, or per diem payments to entities that are either receiving or are eligible to receive capital grants. 38 U.S.C. 2011 and 2012. These criteria reflect VA's goal to provide homeless veterans a safe and stable environment with needed services, as well as ensuring that entities providing services have sufficient resources to maintain those services. Providing medical respite as a standalone support service separate and apart from offering supportive housing to homeless veterans is not within the purview of this program.

Although we make no changes based on the comments, we do assure the commenter that care meeting the HRSA definition of medical respite services

could be provided as a supportive service to homeless veterans under the VA Homeless Providers Grant and Per Diem Program, so long as the provider and the care meet the other part 61 requirements for either a capital or per diem grant. We recognize the importance of such care to the recovery of homeless veterans from emergent medical crises, and we do not believe that our regulations bar, or even discourage, the provision of such care by grantees.

The commenter also urged VA to conduct research to determine the number of detoxification programs that are based out of housing before publishing its final rule. The commenter states that many detoxification programs are based out of clinical settings rather than housing settings, and that by limiting the VA Homeless Providers Grant and Per Diem Program to those detoxification programs based out of housing, VA may be limiting access in many communities. In 2010, VA announced its goal to eliminate veteran homelessness within 5 years. The VA Homeless Providers Grant and Per Diem Program is one of several programs focused on achieving that goal, and it provides funding for supportive services through housing, not clinical, settings. Other VA programs, such as VA's Health Care for Homeless Veterans (HCHV) Program (implemented under 38 CFR part 63) does focus on the substance abuse issues of homeless veterans. It offers outreach, exams, treatment, referrals, and case management to veterans who are homeless and dealing with mental health issues, including substance use. Other related VA programs that offer services to homeless veterans include VA's Substance Use Disorder Treatment Enhancement Initiative as well as Veteran Justice Outreach. The scope of the VA Homeless Providers Grant and Per Diem Program does not include funding for detoxification treatment in other venues, but homeless veterans may receive that treatment through other VA programs.

The final issues raised by the commenter focused on operational requirements for grantees. The commenter stated that the current requirement for grantee compliance with the Life Safety Code of the National Fire Protection Association (NFPA) prevents some potential grantees from participating in the VA Homeless Providers Grant and Per Diem Program. The specific example cited by the commenter was a local program that was prevented from collaborating with VA because it was unable to comply with code requirements for a sprinkler system throughout its facility. The commenter stated that VA should assist programs by providing grants to help medical respite programs meet operational requirements. In addition, the commenter suggests that VA develop alternative policies relative to operational requirements that are more flexible and reflect a balance between safety and no care at all.

Section 2011(b)(5) of title 38, United States Code, states that the eligibility criteria for entities eligible to receive grants shall include provisions to ensure that the entity receiving a grant meets fire and safety requirements established by VA, including applicable state and local requirements as well as fire and safety requirements applicable under the Life Safety Code of the NFPA or such other comparable fire and safety requirements as VA may specify. Similar requirements for per diem only payments are found in 38 U.S.C. 2012(c). We interpret these provisions to require that grantees meet fire and safety requirements as a prerequisite to receiving a grant award. Providing grants to assist programs in meeting fire and safety requirements could result in situations where an applicant receives a grant to upgrade a structure to meet fire and safety requirements, and thereafter does not meet the other criteria for receiving a grant to provide services to homeless veterans.

The safety of veterans receiving services directly from VA or through grantees is of paramount importance. Fire and safety requirements that are applicable across VA ensure that homeless veterans receiving services from a grantee are protected to the same degree regardless of location. We believe this rule strikes the correct balance and do not make any changes based on this comment.

61.67

In proposed § 61.67(b), we had proposed to revise the amount of grant money VA will seek to recover on a prorated basis where the grant recipient ceases to provide services for which the grant was made or withdraws from the Program prior to the expiration of the applicable period of operation. This was reflected in a chart showing the correlation between grant amounts and years of operation, which is necessary to apply the formula for grant recovery described in proposed paragraph (b). We had proposed to extend the periods of operation from the existing range of 7 to 20 years to a range of 20 to 40 years, and to change the grant amount relating to periods of years within that proposed 20- to 40-year period. At the time the proposed rule was published, we believed these revisions would better reflect industry standards for both accounting and real estate methodologies for calculating depreciation and asset worth.

Since this proposed change in the recovery provisions was published, VA has increased funding to programs that focus on moving veterans to permanent housing. We believe it is reasonable to conclude that although transitional housing will always be needed, demand for transitional housing will decline as homeless veterans move into permanent housing. In December 2011, VA announced that the number of homeless veterans had decreased by 12 percent and that between 2009 and 2011 VA and the Department of Housing and Urban Development had successfully housed a total of 33,597 veterans in permanent, supportive housing with dedicated case managers and access to high-quality VA health care. In its first 6 months of operation, the SSVF provided services to over 15,000 participants. To date, over 80 percent of those discharged from SSVF have been placed in or saved their permanent housing.

Based on the successful transition of so many veterans to permanent housing, we now believe that there is less of a need to extend the operational period for grants awarded under this program. The VA Homeless Providers Grant and Per Diem Program specifically provides for the homeless veteran population, and the purpose of the extended recovery period was to require a longer-term period of operation for grantee programs. We now believe that lengthening the time of operation for our grantees could hamper their continued viability, as transitional housing beds may not be filled, decreasing grantee per diem income. Further, grantees would have to wait longer to convert from providing existing transitional housing to providing permanent housing (which is beyond the scope of this program), since the conversion can be accomplished only after the original grant obligations have been met. By continuing to use the current rather than the proposed recovery period, grantees could convert earlier thereby keeping their organizations viable while continuing to serve veterans. Therefore, we are not amending § 61.67(b) at this time.

In addition, we have included in this final rule changes to part 61 mandated by the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, Public Law 112–154. This law was enacted following publication of the proposed rule. Title III of this Public Law impacts this final rule by expanding the definition of homeless

veterans with special needs to include individuals, regardless of gender, who have care of minor dependents; allowing special needs grant and per diem recipients to provide services directly to a dependent of a homeless veteran with special needs who is under the care of that homeless veteran; and clarifying grant eligibility for certain nonprofit organizations. This final rule differs from the proposed rule as necessary to reflect those changes. Because we are repeating the statutory language in the regulations without substantive change, additional notice and comment rulemaking is not required. We made the following changes:

61.14

New paragraph (d) states that VA may not reject an application solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project. ''Private nonprofit organization'' is further defined.

61.40

VA provides special need grants to public or nonprofit private entities that will create or provide supportive housing and services, which they would not otherwise create or provide, for certain special need homeless veteran populations. In paragraph (a), we expand the covered special need homeless veteran populations to include male homeless veterans with minor children.

New paragraph (c) states that recipients of special needs grants under this section may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of that homeless veteran while the veteran receives services from the grant recipient.

61.41

Paragraphs (b) and (c) of this section are revised to match special needs grant application requirements related to changes in § 61.40.

In this final rule we also correct some minor, nonsubstantive typographical errors. Based on the rationale set forth in the proposed rule and in this document, VA is adopting the provisions of the proposed rule as a final rule, except as to the changes noted above.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule at §§ 61.62(f) and 61.80(c) contains new collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). On March 1, 2012, in a proposed rule published in the **Federal Register**, we requested public comments on the new collections of information. We received no comments. Therefore, we make no changes to these collections.

The Office of Management and Budget (OMB) has approved the new information collection requirements associated with this final rule and assigned OMB Control Number 2900–0554. We are adding a parenthetical statement after the authority citations to the sections in part 61 for which new collections have been approved so that the control number is displayed for each new collection.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only those entities that choose to participate in the VA Homeless Providers Grant and Per Diem Program. Small entity applicants would not be affected to a greater extent than large entity applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this rule would have any impact on small entities, it would not have an impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of

the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on February 14, 2013, for publication.

List of Subjects in 38 CFR Part 61

Administrative practice and procedure, Alcohol abuse, Alcoholism, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: February 20, 2013.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 61 is revised to read as follows:

PART 61—VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

Sec.

Subpart A—General Provisions

61.0 Purpose.
61.1 Definitions.
61.2 Supportive services—general.
61.3 Notice of Fund Availability.
61.4 Definition of capital lease.

Subpart B—Capital Grants

61.10 Capital grants—general.
61.11 Capital grants—application packages.
61.12 Capital grant application packages—threshold requirements.
61.13 Capital grant application packages—rating criteria.
61.14 Capital grants—selection of grantees.
61.15 Capital grants—obtaining additional information and awarding capital grants.
61.16 Matching funds for capital grants.
61.17 Site control for capital grants.
61.18 Capital grants for vans.
61.19 Transfer of capital grants.

Subpart C—Per Diem Payments

61.30 Per diem—general.
61.31 Per diem—application packages.
61.32 Per diem application packages—rating criteria.
61.33 Payment of per diem.

Subpart D—Special Need Grants

61.40 Special need grants—general.
61.41 Special need grants—application packages and threshold requirements.
61.44 Awarding special need grants and payment of special need per diem.

Subpart E—Technical Assistance Grants

61.50 Technical assistance grants—general.
61.51 Technical assistance grants—application packages.
61.52 Technical assistance grant application packages—threshold requirements.
61.53 Technical assistance grant application packages—rating criteria.
61.54 Awarding technical assistance grants.
61.55 Technical assistance reports.

Subpart F—Awards, Monitoring, and Enforcement of Agreements

61.61 Agreement and funding actions.
61.62 Program changes.
61.63 Procedural error.
61.64 Religious organizations.
61.65 Inspections.
61.66 Financial management.
61.67 Recovery provisions.
61.80 General operation requirements for supportive housing and service centers.
61.81 Outreach activities.
61.82 Participant fees for supportive housing.

Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2061, 2064.

Subpart A—General Provisions

§ 61.0 Purpose.

This part implements the VA Homeless Providers Grant and Per Diem Program which consists of the following components: capital grants, per diem, special need capital and non-capital grants, and technical assistance grants.

(Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2061, 2064)

§ 61.1 Definitions.

For purposes of this part:

Area or community means a political subdivision or contiguous political subdivisions (such as a precinct, ward, borough, city, county, State, Congressional district, etc.) with a separately identifiable population of homeless veterans.

Capital grant means a grant for construction, renovation, or acquisition of a facility, or a grant for acquisition of a van.

Capital lease is defined by § 61.4.

Chronically mentally ill means a condition of schizophrenia or major affective disorder (including bipolar disorder) or post-traumatic stress disorder (PTSD), based on a diagnosis from a licensed mental health professional, with at least one documented hospitalization for this condition sometime in the last 2 years or with documentation of a formal assessment on a standardized scale of any serious symptomatology or serious impairment in the areas of work, family relations, thinking, or mood.

Default means a determination by VA that an awardee has materially failed to comply with the terms and conditions of an award.

Fixed site means a physical structure that under normal conditions is not capable of readily being moved from one location to another location.

Frail elderly means 65 years of age or older with one or more chronic health problems and limitations in performing one or more activities of daily living (such as bathing, toileting, transferring from bed to chair, etc.).

Homeless has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

New construction means building a structure where none existed, or building an addition to an existing structure that increases the floor area by more than 100 percent.

Nonprofit organization means a private organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must be recognized as a section 501(c)(3) or 501(c)(19) nonprofit organization by the United States Internal Revenue Service, and meet all of the following criteria:

(1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity to maintain such a functioning accounting system; and

(3) Practice nondiscrimination in the provision of supportive housing and supportive services assistance.

Notice of Fund Availability (NOFA) means a notice published in the **Federal Register** in accordance with § 61.60.

Operating costs means expenses incurred in operating supportive housing, supportive services or service centers with respect to:

(1) Administration (including staff salaries; costs associated with accounting for the use of grant funds, preparing reports for submission to VA, obtaining program audits, and securing accreditation; and similar costs related to administering the grant after the award), maintenance, repair and security for the supportive housing;

(2) Van costs or building rent (except under capital leases), e.g., fuel, insurance, utilities, furnishings, and equipment;

(3) Conducting on-going assessments of supportive services provided for and needed by participants and the availability of such services; and

(4) Other costs associated with operating the supportive housing.

Operational means a program for which all VA inspection requirements under this part have been met and an activation document has been issued by the VA National GPD Program.

Outpatient health services means outpatient health care, outpatient mental health services, outpatient

alcohol and/or substance abuse services, and case management.

Participant means a person receiving services based on a grant or per diem provided under this part.

Participant agreement means any written or implied agreement between a grant recipient agency and a program participant that outlines the requirements for program compliance, participant or service delivery.

Project means all activities that define the parameters of the purpose of the grant.

Public entity means any of the following:

(1) A county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government; or

(2) The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by the Bureau of Indian Affairs.

Recipient means the entity whose employer or taxpayer identification number is on the Application for Federal Assistance (SF 424) and is consequently responsible to comply with all terms and conditions of the award. For the purpose of this part the terms ''grantee,'' ''recipient,'' and ''awardee'' are synonymous and interchangeable.

Rehabilitation means the improvement or repair of an existing structure. Rehabilitation does not include minor or routine repairs.

State means any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a state exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Supportive housing means housing with supportive services provided for homeless veterans that:

(1) Is not shelter care, other emergent housing, or housing designed to be permanent or long term (more than 24 months), with no requirement to move; and

(2) Is designed to either:

(i) Facilitate the movement of homeless veterans to permanent housing within a period that is not less than 90 days and does not exceed 24 months, subject to § 61.80; or

(ii) Provide specific medical treatment such as detoxification, respite, or hospice treatments that are used as step-up or step-down programs within that specific project's continuum.

Supportive services has the meaning assigned to it under § 61.2.

Terminally ill means a prognosis of 9 months or less to live, based on a written medical diagnosis from a physician.

Total project cost means the sum of all costs incurred by a recipient for the acquisition, rehabilitation, and new construction of a facility, or van(s), identified in a grant application.

VA means the Department of Veterans Affairs.

VA National GPD Program refers to the VA Homeless Providers Grant and Per Diem Program.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064)

§ 61.2 Supportive services—general.

(a) Recipients must design supportive services. Such services must provide appropriate assistance, or aid participants in obtaining appropriate assistance, to address the needs of homeless veterans. The following are examples of supportive services:

(1) Outreach activities;

(2) Providing food, nutritional advice, counseling, health care, mental health treatment, alcohol and other substance abuse services, case management services;

(3) Establishing and operating child care services for dependents of homeless veterans;

(4) Providing supervision and security arrangements necessary for the protection of residents of supportive housing and for homeless veterans using supportive housing or services;

(5) Assistance in obtaining permanent housing;

(6) Education, employment counseling and assistance, and job training;

(7) Assistance in obtaining other Federal, State and local assistance available for such residents including mental health benefits, employment counseling and assistance, veterans' benefits, medical assistance, and income support assistance; and

(8) Providing housing assistance, legal assistance, advocacy, transportation, and other services essential for achieving and maintaining independent living.

(b) Supportive services do not include inpatient acute hospital care.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

§ 61.3 Notice of Fund Availability.

When funds are made available for a grant or per diem award under this part, VA will publish a Notice of Fund Availability in the **Federal Register**. The notice will:

(a) Give the location for obtaining application packages;

(b) Specify the date, time, and place for submitting completed applications;

(c) State the estimated amount and type of funding available; and

(d) State any priorities for or exclusions from funding to meet the statutory mandate of 38 U.S.C. 2011, to ensure that awards do not result in the duplication of ongoing services and to reflect the maximum extent practicable appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(e) Provide other information necessary for the application process, such as the grant period, where applicable.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

§ 61.4 Definition of capital lease.

A capital lease, for purposes of this part, means a conditional sales contract that either:

(a) Will be in effect for all of the period of recovery listed in § 61.67(b); or

(b) That satisfies one of the following criteria:

(1) The lease transfers ownership to the lessee at the expiration of the lease term.

(2) The lease contains a bargain purchase option.

(3) The present value of lease payments that are applied to the purchase are equal to or greater than 90 percent of the fair market value of the asset.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

Subpart B—Capital Grants

§ 61.10 Capital grants—general.

(a) Subject to the availability of appropriations provided for such purpose, VA will provide capital grants to public or nonprofit private entities so they can assist homeless veterans by helping to ensure the availability of

supportive housing and service centers to furnish outreach, rehabilitative services, and vocational counseling and training. Specifically, VA provides capital grants for up to 65 percent of the cost to:

(1) Construct structures and purchase the underlying land to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;

(2) Acquire structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;

(3) Renovate existing structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers; and

(4) Procure a van in accordance with § 61.18, Capital grants for vans.

(b) Capital grants may not be used for acquiring buildings located on VA-owned property. However, capital grants may be awarded for construction, expansion, or renovation of buildings located on VA-owned property.

(Authority: 38 U.S.C. 501, 2011)

§ 61.11 Capital grants—application packages.

(a) *General.* To apply for a capital grant, an applicant must obtain from, complete, and submit to VA a capital grant application package within the time period established in the Notice of Fund Availability.

(b) *Content of application.* The capital grant application package will require the following:

(1) Site description, site design, and site cost estimates.

(2) Documentation supporting:

(i) Eligibility to receive a capital grant under this part;

(ii) Matching funds committed to the project;

(iii) A proposed operating budget and cost sharing;

(iv) Supportive services committed to the project;

(v) The applicant's authority to control the site and meet appropriate zoning laws; and

(vi) The boundaries of the area or community that would be served.

(3) If capital grant funds would be used for acquisition or rehabilitation, documentation demonstrating that the costs associated with acquisition or rehabilitation are less than the costs associated with new construction.

(4) If capital grant funds would be used for new construction, documentation demonstrating that the costs associated with new construction are less than the costs associated with rehabilitation of an existing building, that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction, and that new construction is less costly than acquisition of an existing building (for purposes of this cost comparison, costs associated with rehabilitation or new construction may include the cost of real property acquisition).

(5) If proposed construction includes demolition:

(i) A demolition plan that describes the extent and cost of existing site features to be removed, stored, or relocated; and

(ii) Information establishing that the proposed construction is either in the same location as the building to be demolished or that the demolition is inextricably linked to the design of the construction project. Without such information, the cost of demolition cannot be included in the cost of construction.

(6) If the applicant is a state, comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197).

(7) A statement from the applicant that all of the following are true:

(i) The project will furnish to veterans the level of care for which such application is made, and services provided will meet the requirements of this part.

(ii) The applicant will continue to operate the project until the expiration of the period during which VA could seek full recovery under § 61.67.

(iii) Title to the site will vest solely in the applicant and the applicant will insure the site to the same extent they would insure a site bought with their own funds.

(iv) Adequate financial support will be available for the completion of the project.

(v) The applicant will keep records and submit reports as VA may reasonably require, within the time frames required, and, upon demand, allow VA access to the records upon which such information is based.

(vi) The applicant will state that no more than 25 percent of the grant-awarded beds are occupied by non-veterans.

(c) *Multiple capital grant applications.* Subject to § 61.12(i), applicants may apply for more than one capital grant.

(Authority: 38 U.S.C. 501, 2011)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554).

§ 61.12 Capital grant application packages—threshold requirements.

The following threshold requirements for a capital grant application must be met, or the application will be rejected before being rated under § 61.13:

(a) The application package must meet all of the following criteria:

(1) Be on the correct application form.

(2) Be completed in all parts, including all information requested in the Notice of Fund Availability and application package.

(3) Include a signed Application for Federal Assistance (SF 424) that contains the Employer Identification Number or Taxpayer Identification Number (EIN/TIN) that corresponds to the applicant's Internal Revenue Service (IRS) 501(c)(3) or (19) determination letter. All applicants must provide such an IRS determination letter, which includes their EIN/TIN. Applicants that apply under a group EIN/TIN must be identified by the parent EIN/TIN as a member or sub-unit of the parent EIN/TIN and provide supporting documentation.

(4) Be submitted before the deadline established in the Notice of Fund Availability.

(b) The applicant must be a public or nonprofit private entity at the time of application.

(c) The activities for which assistance is requested must be eligible for funding under this part.

(d) The applicant must demonstrate that adequate financial support will be available to carry out the project for which the capital grant is sought, consistent with the plans, specifications, and schedule submitted by the applicant.

(e) The application must demonstrate compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(f) The applicant must agree to comply with the requirements of this part and demonstrate the capacity to do so.

(g) The applicant must not have an outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit.

(h) The applicant must not have been notified by VA as being in default.

(i) The applicant, during the 5 years preceding the date of the application, must not have done any of the following:

(1) Had more than two grants awarded under this part that remain in development;

(2) Failed to establish two previous awarded grant projects under this part; or

(3) Had a previous grant or per diem project awarded under this part terminated or transferred to another eligible entity for failure to comply with the terms and conditions of the award.

(Authority: 38 U.S.C. 501, 2011)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554).

§ 61.13 Capital grant application packages—rating criteria.

(a) *General.* Applicants that meet the threshold requirements in § 61.12 will be rated using the selection criteria listed in this section. To be eligible for a capital grant, an applicant must receive at least 750 points (out of a possible 1000) and must receive points under each of the following paragraphs (b), (c), (d), (e), (f), and (g) of this section.

(b) *Project plan.* VA will award up to 300 points based on the demonstration and quality of the following:

(1) The selection of the proposed housing in light of the population to be served.

(2) The process used for deciding which veterans are appropriate for admission.

(3) How, when, and by whom the progress of participants toward meeting their individual goals will be monitored, evaluated, and documented.

(4) The role program participants will have in operating and maintaining the housing.

(5) The responsibilities the applicant, sponsors, or contractors will have in operating and maintaining the housing.

(6) The supportive services that will be provided and by whom to help participants achieve residential stability, increase skill level and/or income, and become involved in making life decisions that will increase self-determination.

(7) The measureable objectives that will be used to determine success of the supportive services.

(8) How the success of the program will be evaluated on an ongoing basis.

(9) How the nutritional needs of veterans will be met.

(10) How the agency will ensure a clean and sober environment.

(11) How participants will be assisted in assimilating into the community through access to neighborhood facilities, activities, and services.

(12) How the proposed project will be implemented in a timely fashion.

(13) How permanent affordable housing will be identified and made known to participants upon leaving the supportive housing.

(14) How participants will be provided necessary follow-up services.

(15) The description of program policies regarding participant agreements, rent, and fees.

(c) *Outreach to persons on streets and in shelters.* VA will award up to 100 points based on:

(1) The agency's outreach plan to serve homeless veterans living in places not ordinarily meant for human habitation (e.g., streets, parks, abandoned buildings, automobiles, under bridges, in transportation facilities) and those who reside in emergency shelters; and

(2) The likelihood that proposed plans for outreach and selection of participants will result in these populations being served.

(d) *Ability of applicant to develop and operate a project.* VA will award up to 200 points based on the extent to which the application demonstrates the necessary staff and organizational experience to complete and operate the proposed project, based on the following:

(1) Staffing plan for the project that reflects the appropriate professional staff, both administrative and clinical;

(2) Experience of staff, if staff not yet hired, position descriptions and expectations of time to hire;

(3) Amount of time each staff position is dedicated to the project, and in what capacity;

(4) Applicant's previous experience assessing and providing for the housing needs of homeless veterans;

(5) Applicant's previous experience assessing and providing supportive services for homeless veterans;

(6) Applicant's previous experience assessing supportive service resources and entitlement benefits;

(7) Applicant's previous experience with evaluating the progress of both individual participants and overall program effectiveness using quality and performance data to make changes;

(8) Applicant's previous experience operating housing for homeless individuals;

(9) Overall agency organizational overview (org. chart); and

(10) Historical documentation of past performance both with VA and non-VA projects, including those from other Federal, state and local agencies and audits by private or public entities.

(e) *Need.* VA will award up to 150 points based on the extent to which the applicant demonstrates:

(1) Substantial unmet needs, particularly among the target population living in places not ordinarily meant for human habitation such as the streets, emergency shelters, based on reliable data from surveys of homeless populations or other reports or data gathering mechanisms that directly support claims made; and

(2) An understanding of the homeless population to be served and its unmet housing and supportive service needs.

(f) *Completion confidence.* VA will award up to 50 points based on the review panel's confidence that the applicant has effectively demonstrated the supportive housing or service center project will be completed as described in the application. VA may use historical program documents of past performance both VA and non-VA, including those from other Federal, state and local agencies as well as audits by private or public entities in determining confidence scores.

(g) *Coordination with other programs.* VA will award up to 200 points based on the extent to which applicants demonstrate that they have coordinated with Federal, state, local, private and other entities serving homeless persons in the planning and operation of the project. Such entities may include shelter transitional housing, health care, or social service providers; providers funded through Federal initiatives; local planning coalitions or provider associations; or other program providers relevant to the needs of homeless veterans in the local community. Applicants are required to demonstrate that they have coordinated with the VA medical care facility of jurisdiction and/or VA Regional Office of jurisdiction in their area. VA will award up to 50 points of the 200 points based on the extent to which commitments to provide supportive services are documented at the time of application. Up to 150 points of the 200 points will be given to the extent applicants demonstrate that:

(1) They are part of an ongoing community-wide planning process within the framework described above which is designed to share information on available resources and reduce duplication among programs that serve homeless veterans;

(2) They have consulted directly with the closest VA Medical Center and other providers within the framework described above regarding coordination of services for project participants; and

(3) They have coordinated with the closest VA Medical Center their plan to assure access to health care, case management, and other care services.

(Authority: 38 U.S.C. 501, 2011)

§ 61.14 Capital grants—selection of grantees.

(a) Applicants will first be grouped in categories according to the funding priorities set forth in the NOFA, if any. Applicants will then be ranked, within their respective funding category if applicable. The highest-ranked applications for which funding is available, within highest priority funding category if applicable, will be conditionally selected to receive a capital grant in accordance with their ranked order, as determined under § 61.13. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding.

(b) In the event of a tie between applicants, VA will use the score from § 61.13(g) to determine the ranking. If the score from § 61.13(g) is also tied, VA will use the score from § 61.13(d) to determine the ranking.

(c) VA may reject an application where the project is not cost effective based on the cost and number of new supportive housing beds made available—or based on the cost, amount, and types of supportive services made available—when compared to other supportive housing or services projects, and when adjusted for high cost areas. For those applications that VA believes not to be cost-effective VA will;

(1) Reduce the award; or

(2) Not select the application for funding.

(d) VA may not reject an application solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project. In this section ''private nonprofit organization'' means one of the following:

(1) An incorporated private institution, organization, or foundation—

(i) That has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;

(ii) For which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and

(iii) That VA determines is financially responsible.

(2) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by paragraph (d)(1) of this section.

(3) A corporation wholly owned and controlled by an organization that is described by paragraph (d)(1) of this section.

(e) In the case of a previously awarded project that can no longer provide services and or housing and the recipient agency has decided to withdraw or the project has been terminated for failure to comply with the terms and conditions of the award; VA may transfer a capital grant or non-capital grant to another eligible entity in the same geographical area without competition, in order to prevent a loss of capacity of services and housing to homeless veterans. The new entity must meet all of the requirements to which the original grantee was subject. In the case of a capital grant transfer the new grantee will only be entitled to the funding that remains from the original capital obligation and remains responsible for all commitments made by the original grantee.

(Authority: 38 U.S.C. 501, 2011)

§ 61.15 Capital grants—obtaining additional information and awarding capital grants.

(a) Each applicant who has been conditionally selected for a capital grant will be requested by VA to submit additional documentation or information as necessary, including:

(1) Any additional information necessary to show that the project is feasible, including a plan from an architect, contractor, or other building professional who provides estimated costs for the proposed design;

(2) Documentation showing the sources of funding for the project and firm financing commitments for the matching requirements described in § 61.16;

(3) Documentation establishing site control described in § 61.17;

(4) Documentation establishing compliance with the National Historic Preservation Act (16 U.S.C. 470);

(5) Information necessary for VA to ensure compliance both with Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines;

(6) Documentation establishing compliance with local and state zoning codes;

(7) Documentation in the form of one set of design development (35 percent completion) drawings demonstrating compliance with local codes, state codes, and the current Life Safety Code of the National Fire Protection Association.

(8) Information necessary for VA to ensure compliance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(9) A site survey performed by a licensed land surveyor; and

(10) Such other documentation as specified by VA in writing or verbally to the applicant to confirm or clarify information provided in the application.

(b) Items requested under paragraph (a) of this section must be received by VA in acceptable form within the time frame established in accordance with the Notice of Fund Availability.

(c) Following receipt of the additional information in acceptable form, VA will execute an agreement and make payments to the grant recipient in accordance with § 61.61 and other applicable provisions of this part.

(Authority: 38 U.S.C. 501, 2011)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554)

§ 61.16 Matching funds for capital grants.

(a) VA cannot award a capital grant for more than 65 percent of the total allowable costs of the project. The grantee must provide funding (''matching funding'') for the remaining 35 percent of the total cost, using non-federal funds. VA requires that applicants provide documentation of all costs related to the project including those that are not allowable under OMB Circular A–122 as codified at 2 CFR part 230. Allowable costs means those related to the portion (percentage) of the property that would be used to provide supportive housing and services under this part.

(b) Capital grants may include application costs, including site surveys, architectural, and engineering fees, but may not include relocation costs or developer's fees.

(c) *Documentation of matching funds.* The matching funds described in paragraph (a) of this section must be documented as follows; no other format will be accepted as evidence of a firm commitment of matching funds:

(1) Donations must be on the donor's letterhead, signed and dated.

(2) The applicant's own cash must be committed on the applicant's letterhead, signed, and dated.

(3) No conditions may be placed on the matching funds other than the organization's receipt of the capital grant.

(4) Funds must be committed to the same activity as the capital grant application (i.e., acquisition, renovation,

new construction, or a van), and must not relate to operating costs or services.

(5) The value of matching funds must be for a cost that is included in the calculation of the total project cost, thereby decreasing the total expenditures of the grantee.

(d) *Van applications.* The requirements of this section also apply to applications for a capital grant for a van under § 61.18.

(Authority: 38 U.S.C. 501, 2011)

§ 61.17 Site control for capital grants.

(a) In order to receive a capital grant for supportive housing or a fixed site service center, an applicant must demonstrate site control. Site control must be demonstrated through a deed or an executed contract of sale, or a capital lease, which assigns control or ownership to the entity whose Federal employer or taxpayer identification number is on the Application for Federal Assistance (SF424), unless one of the following apply:

(1) VA gives written permission for an alternate assignment. VA will permit alternate assignments except when:

(i) The alternate assignment is to a for-profit entity which is neither controlled by the applicant or by the applicant's parent organization or the entity is controlled by the applicant's parent organization which is a for-profit entity; or

(ii) VA has a reasonable concern that the assignment may provide an economic or monetary benefit to the assignee other than the benefit that would have inured to the applicant had the applicant not made the alternate assignment.

(2) The site is in a building or on land owned by VA, and the applicant has an agreement with VA for site control.

(b) A capital grant recipient may change the site to a new site meeting the requirements of this part subject to VA approval under § 61.62. However, the recipient is responsible for and must demonstrate ability to provide for any additional costs resulting from the change in site.

(c) If site control is not demonstrated within 1 year after execution of an agreement under § 61.61, the grantee may request a reasonable extension from the VA national GPD office, or the grant may be terminated. VA will authorize an extension request if the grantee was not at fault for being unable to exercise site control and the lack of site control does not affect the grantee's ability to complete the project.

(Authority: 38 U.S.C. 501, 2011)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554)

§ 61.18 Capital grants for vans.

(a) *General.* A capital grant may be used to procure one or more vans, as stated in a NOFA, to provide transportation or outreach for the purpose of providing supportive services. The grant may cover the purchase price, sales taxes, and title and licensing fees. Title to the van must vest solely in the applicant, and the applicant must insure the van to the same extent they would insure a van bought with their own funds.

(b) *Who can apply for a van.* VA will only award vans to applicants who currently have an operational grant under this part, or in conjunction with a new application.

(c) *Application packages for van(s).* In order to receive a van, the application must demonstrate the following:

(1) Clear need for the van(s);

(2) Specific use of the van(s);

(3) Frequency of use of the van(s);

(4) Qualifications of the van driver(s);

(5) Training of the van driver(s);

(6) Type of van(s) to be obtained; and

(7) Adequate financial support will be available for the completion of the project or for the purchase and maintenance, repair, and operation of the van(s).

(d) *Rating criteria.* Applications will be scored using the selection criteria listed in this section. To be eligible for a van grant, an applicant must receive at least 80 points (out of a possible 100) of this section.

(1) *Need.* VA will award up to 60 points based on the extent to which the applicant demonstrates a substantial unmet need for transportation due to:

(i) Lack of alternative public transportation,

(ii) Project location,

(iii) Expired life use of current van, or

(iv) Special disabled individual transportation.

(2) *Activity.* VA will award up to 20 points based on the extent to which the applicant demonstrates:

(i) Frequency of use,

(ii) Type of use, and

(iii) Type of van, e.g., whether there is a justification for a van with a wheelchair lift or other modifications.

(3) *Operator qualification.* VA will award up to 20 points based on the extent to which the applicant demonstrates a job description for the van operator that details:

(i) Requirements of the position, and

(ii) Training that will be provided to the driver.

(Authority: 38 U.S.C. 501, 2011)

§ 61.19 Transfer of capital grants.

In the case of a previously awarded project that can no longer provide services and/or housing and the recipient agency has decided to withdraw or the project has been terminated for failure to comply with the terms and conditions of the award, VA may transfer a capital grant or non-capital grant to another eligible entity in the same geographical area without competition, in order to prevent a loss of capacity of services and housing to homeless veterans. The new entity must meet all of the requirements to which the original grantee was subject. In the case of a capital grant transfer the new grantee will only be entitled to the funding that remains from the original capital obligation and remains responsible for all commitments made by the original grantee.

(Authority: 38 U.S.C. 501, 2011)

Subpart C—Per Diem Payments

§ 61.30 Per diem—general.

(a) *General.* VA may provide per diem funds to offset operating costs for a program of supportive housing or services. VA may provide:

(1) Per diem funds to capital grant recipients; or

(2) Per diem only (PDO) funds to entities eligible to receive a capital grant, if the entity established a program of supportive housing or services after November 10, 1992.

(b) *Capital grant recipients.* Capital grant recipients may request per diem funds after completion of a project funded by a capital grant and a site inspection under § 61.80 to ensure that the grantee is capable of providing supportive services.

(c) *Per diem only applicants.* PDO awards to entities eligible to receive a capital grant must provide supportive housing or services to the homeless veteran population within 180 days after the date on the notification of award letter, or VA will terminate the PDO payments.

(Authority: 38 U.S.C. 501, 2012)

§ 61.31 Per diem—application packages.

(a) *Capital grant recipient.* To apply for per diem, a capital grant recipient need only indicate the intent to receive per diem on the capital grant application or may separately request per diem by submitting to VA a written statement requesting per diem.

(b) *Non-capital-grant recipient (per diem only).* To apply for per diem only, a non-capital grant applicant must obtain from VA a non-capital grant application package and submit to VA the information called for in the

application package within the time period established in the Notice of Fund Availability. The application package includes exhibits to be prepared and submitted as part of the application process, including:

(1) Documentation on eligibility to receive per diem under this part;

(2) Documentation on operating budget and cost sharing;

(3) Documentation on supportive services committed to the project;

(4) Comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197), if the applicant is a state; and

(5) Reasonable assurances with respect to receipt of per diem under this part that:

(i) The project will be used principally to furnish to veterans the level of care for which such application is made; that not more than 25 percent of participants at any one time will be non-veterans; and that such services will meet the requirements of this part;

(ii) Adequate financial support will be available for the per diem program; and

(iii) The recipient will keep records and submit reports as VA may reasonably require, within the time frames required; and give VA, upon demand, access to the records upon which such information is based.

(Authority: 38 U.S.C. 501, 2012)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554)

§ 61.32 Per diem application packages—rating criteria.

(a) *Conditional selection.* Application packages for per diem only (i.e., from non-capital grant applicants) in response to a Notice of Fund Availability (NOFA) will be reviewed and grouped in categories according to the funding priorities set forth in the NOFA, if any. Such applications will then be ranked within their respective funding category according to scores achieved only if the applicant scores at least 750 cumulative points out of a possible 1000 from each of the following paragraphs: (b), (c), (d), (e), (f), and (g) of § 61.13. The highest-ranked applications for which funding is available, within highest funding priority category if applicable, will be conditionally selected for eligibility to receive per diem payments or special need payment in accordance with their ranked order. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding. Conditional selectees will be subsequently awarded per diem, if they otherwise meet the requirements of this part, including passing the inspection required by § 61.80.

(b) *Ranking applications.* In the event of a tie between applicants, VA will use the score from § 61.13(g) to determine the ranking. Note: Capital grant recipients are not required to be ranked; however, continuation of per diem payments to capital grant recipients will be subject to limitations set forth in § 61.33.

(c) *Executing per diem agreements.* VA will execute per diem agreements with an applicant whose per diem application was conditionally selected under this section using the same procedures applicable to a capital grant under § 61.15.

(Authority: 38 U.S.C. 501, 2012)

§ 61.33 Payment of per diem.

(a) *General.* VA will pay per diem to the recipient for those homeless veterans:

(1) Who VA referred to the recipient; or

(2) For whom VA authorized the provision of supportive housing or supportive service.

(b) *Rate of payments for individual veterans.* The rate of per diem for each veteran in supportive housing shall be the lesser of:

(1) The daily cost of care estimated by the per diem recipient minus other sources of payments to the per diem recipient for furnishing services to homeless veterans that the per diem recipient certifies to be correct (other sources include payments and grants from other departments and agencies of the United States, from departments of local and State governments, from private entities or organizations, and from program participants); or

(2) The current VA state home program per diem rate for domiciliary care, as set by the Secretary under 38 U.S.C. 1741(a)(1).

(c) *Rate of payments for service centers.* The per diem amount for service centers shall be ⅛ of the lesser of the amount in paragraph (b)(1) or (b)(2) of this section, per hour, not to exceed 8 hours in any day.

(d) *Continuing payments.* Recipients may continue to receive per diem only so long as funding is available, they continue to provide the supportive services described in their application, and they continue to meet the applicable ongoing requirements of this part. For non-capital grant recipients of per diem only, funds will be paid to the highest-ranked applicants, within the highest-funding priority category if applicable, in descending order until funds are expended. Generally, payments will continue for the time frame specified in the Notice of Fund Availability. When necessary due to funding limitations, VA will reduce the rate of per diem.

(e) *Retroactive payments.* Per diem may be paid retroactively for services provided not more than 3 days before VA approval is given or where, through no fault of the recipient, per diem payments should have been made but were not made.

(f) *Payments for absent veterans.* VA will pay per diem for up to, and not more than, 72 consecutive hours (scheduled or unscheduled) of absence.

(g) *Supportive housing limitation.* VA will not pay per diem for supportive housing for any homeless veteran who has had three or more episodes (admission and discharge for each episode) of supportive housing services paid for under this part. VA may waive this limitation if the services offered are different from those previously provided and may lead to a successful outcome.

(h) *Veterans receiving supportive housing and services.* VA will not pay per diem for both supportive housing and supportive services provided to the same veteran by the same per diem recipient.

(i) At the time of receipt, a per diem recipient must report to VA all other sources of income for the project for which per diem was awarded. The report provides a basis for adjustments to the per diem payment under paragraph (b)(1) of this section.

(Authority: 38 U.S.C. 501, 2012)

Subpart D—Special Need Grants

§ 61.40 Special need grants—general.

(a) VA provides special need grants to public or nonprofit private entities that will create or provide supportive housing and services, which they would not otherwise create or provide, for the following special need homeless veteran populations:

(1) Women;

(2) Frail elderly;

(3) Terminally ill;

(4) Chronically mentally ill; or

(5) Individuals who have care of minor dependents.

(b) Applicants must submit an application package for a capital or non-capital grant, which will be processed by the VA National GPD Program in accordance with this part; however, to be eligible for a capital special need

grant, an applicant must receive at least 800 points (out of a possible 1000) and must receive points under each of the following paragraphs: (b), (c), (d), (e), (f), and (g) of § 61.13. Non-capital special need grants are rated in the same manner as non-capital grant applications under § 61.32.

(c) A recipient of a grant under paragraph (a) of this section may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient under this section.

(d) The following sections apply to special need grants: §§ 61.61 through 61.67, § 61.80, and § 61.82.

(Authority: 38 U.S.C. 501, 2061)

§ 61.41 Special need grants—application packages and threshold requirements.

(a) *Applications.* To apply for a special need grant, an applicant must obtain, complete, and submit to VA a special need capital grant or special need per diem only application package within the time period established in the Notice of Fund Availability. A special need grant application must meet the same threshold requirements applicable to a capital grant under § 61.12.

(b) *Additional requirement.* In addition to the requirements of § 61.11, applicants must describe how they will address the needs of one or more of the homeless veteran populations identified in paragraphs (c) through (g) of this section.

(c) *Women.* Applications must show how the program design will:

(1) Ensure transportation for women, especially for health care and educational needs; and

(2) Address safety and security issues including segregation from other program participants if deemed appropriate.

(d) *Individuals who have care of minor dependents.* Applications must show how the program design will:

(1) Ensure transportation for individuals who have care of minor dependents, and their children, especially for health care and educational needs;

(2) Provide directly or offer referrals for adequate and safe child care;

(3) Ensure children's health care needs are met, especially age-appropriate wellness visits and immunizations; and

(4) Address safety and security issues including segregation from other program participants if deemed appropriate.

(e) *Frail elderly.* Applications must show how the program design will:

(1) Ensure the safety of the residents in the facility to include preventing harm and exploitation;

(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;

(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;

(4) Provide access to walkers, grippers, or other assistance devices necessary for optimal functioning;

(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(6) Provide opportunities for participants either directly or through referral for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

(f) *Terminally ill.* Applications must show how the program design will:

(1) Help participants address life-transition and life-end issues;

(2) Ensure that participants are afforded timely access to hospice services;

(3) Provide opportunities for participants to engage in ''tasks of dying,'' or activities of ''getting things in order'' or other therapeutic actions that help resolve end of life issues and enable transition and closure;

(4) Ensure adequate supervision including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants either directly or through referral for other services particularly relevant for terminally ill such as legal counsel and pain management.

(g) *Chronically mentally ill.* Applications must show how the program design will:

(1) Help participants join in and engage with the community;

(2) Facilitate reintegration with the community and provide services that may optimize reintegration such as life-skills education, recreational activities, and follow up case management;

(3) Ensure that participants have opportunities and services for re-establishing relationships with family;

(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a chronically mentally ill population, such as vocational development, benefits management, fiduciary or money management services, medication compliance, and medication education.

(Authority: 38 U.S.C. 501, 2061)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554).

§ 61.44 Awarding special need grants and payment of special need per diem.

(a) For those applicants selected for a special need grant, VA will execute an agreement and make payments to the grantee under § 61.61.

(b) Capital grantee selectees who successfully complete the capital portion of their grant, or non-capital grantee selectees who successfully pass VA inspection, will be eligible for a special need per diem payment to defray the operational cost of the project. Special need per diem payment will be the lesser of:

(1) 100 percent of the daily cost of care estimated by the special need recipient for furnishing services to homeless veterans with special need that the special need recipient certifies to be correct, minus any other sources of income; or

(2) Two times the current VA State Home Program per diem rate for domiciliary care.

(c) Special need awards are subject to funds availability, the recipient meeting the performance goals as stated in the grant application, statutory and regulatory requirements, and annual inspections.

(d) Special need capital grantees are not eligible for per diem payment under § 61.33, as the special need per diem payment covers the cost of care.

(Authority: 38 U.S.C. 501, 2061)

Subpart E—Technical Assistance Grants

§ 61.50 Technical assistance grants—general.

(a) *General.* VA provides technical assistance grants to entities or organizations with expertise in preparing grant applications relating to the provision of assistance for homeless veterans. The recipients must use the grants to provide technical assistance to nonprofit organizations with experience in providing assistance to homeless veterans in order to help such groups apply for grants under this part, or from any other source, for addressing the needs of homeless veterans. Current recipients of any grant under this part

(other than a technical assistance grant), or their sub-recipients, are ineligible for technical assistance grants.

(b) *Allowable activities.* Technical assistance grant recipients may use grant funds for the following activities:

(1) Group or individual ''how-to'' grant writing seminars, providing instructions on applying for a grant. Topics must include:

(i) Determining eligibility;

(ii) Matching the awarding agency's grant mission to the applicant agency's strengths;

(iii) Meeting the specific grant outcome requirements;

(iv) Creating measurable goals and objectives for grants;

(v) Relating clear and concise grant project planning;

(vi) Ensuring appropriate grant project staffing; and

(vii) Demonstrating the applicant's abilities.

(2) Creation and dissemination of ''how-to'' grant writing materials, i.e., compact disks, booklets, web pages or other media specifically designed to facilitate and instruct applicants in the completion of grant applications.

(3) Group or individual seminars, providing instructions on the legal obligations associated with grant applications. Topics must include:

(i) Office of Management and Budget (OMB) grant management circulars and forms, 2 CFR parts 215, 225, 230;

(ii) Federal funding match and fund separation requirements; and

(iii) Property and equipment disposition.

(4) Telephone, video conferencing or email with potential grant applicants that specifically address grant application questions.

(c) *Unallowable activities.* Technical assistance grant recipients may not use grant funds for the following activities:

(1) Meetings, consortia, or any similar activity that does not assist community agencies in seeking grants to aid homeless veterans.

(2) Referral of individual veterans to agencies for benefits, housing, medical assistance, or social services.

(3) Lobbying.

(Authority: 38 U.S.C. 501 and 2064)

§ 61.51 Technical assistance grants—application packages.

(a) To apply for a technical assistance grant, an applicant must obtain from VA, complete, and submit to VA a technical assistance grant application package within the time period established in the Notice of Fund Availability.

(b) The technical assistance grant application package will require the following:

(1) Documentation on eligibility to receive a technical assistance grant under this part;

(2) A description of technical assistance that would be provided (see § 61.50);

(3) Documentation concerning the estimated operating costs and operating budget for the technical assistance program for which the grant is sought;

(4) Documentation concerning expertise in preparing grant applications;

(5) Documentation of resources committed to the provision of technical expertise;

(6) Comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197), if the applicant is a state; and

(7) Reasonable assurances that:

(i) The recipient will provide adequate financial and administrative support for providing the services set forth in the technical assistance grant application, and will actually provide such services; and

(ii) The recipient will keep records and timely submit reports as required by VA, and will give VA, on demand, access to the records upon which such reports are based.

(Authority: 38 U.S.C. 501, 2064)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554)

§ 61.52 Technical assistance grant application packages—threshold requirements.

The following threshold requirements for a technical assistance grant must be met, or the application will be rejected before being rated under § 61.53:

(a) The application must be complete and submitted on the correct form and in the time period established in the Notice of Fund Availability;

(b) The applicant must establish expertise in preparing grant applications;

(c) The activities for which assistance is requested must be eligible for funding under this part;

(d) The applicant must demonstrate that adequate financial support will be available to carry out the project for which the grant is sought, consistent with the plans, specifications and schedule submitted by the applicant;

(e) The applicant must not have an outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit; and

(f) The applicant must not have been notified by VA as being in default.

(Authority: 38 U.S.C. 501, 2064)

§ 61.53 Technical assistance grant application packages—rating criteria.

(a) *General.* Applicants that meet the threshold requirements in § 61.52 will then be rated using the selection criteria listed in paragraphs (b) and (c) of this section. To be eligible for a technical assistance grant, an applicant must receive at least 600 points (out of a possible 800).

(b) *Quality of the technical assistance.* VA will award up to 400 points based on the following:

(1) How the recipients of technical training will increase their skill level regarding the completion of applications;

(2) How the recipients of technical training will learn to find grant opportunities in a timely manner;

(3) How the technical assistance provided will be monitored and evaluated and changes made, if needed; and

(4) How the proposed technical assistance programs will be implemented in a timely fashion.

(c) *Ability of applicant to demonstrate expertise in preparing grant applications and to develop and operate a technical assistance program.* VA will award up to 400 points based on the extent to which the application demonstrates all of the following:

(1) Ability to find grants available for addressing the needs of homeless veterans.

(2) Ability to find and offer technical assistance to entities eligible for such assistance.

(3) Ability to administer a technical assistance program.

(4) Ability to provide grant technical assistance.

(5) Ability to evaluate the overall effectiveness of the technical assistance program and to make adjustments, if necessary, based on those evaluations.

(6) Past performance. VA may use historical documents of past performance from both VA and non-VA, including those from other Federal, state and local agencies and audits by private or public entities in scoring technical assistance applications.

(Authority: 38 U.S.C. 501, 2064)

§ 61.54 Awarding technical assistance grants.

(a) Applicants will first be grouped in categories according to the funding priorities set forth in the NOFA, if any. Applicants will then be ranked within their respective funding category, if applicable. The highest-ranked applications for which funding is available, within highest priority funding category if applicable, will be

selected to receive a technical assistance grant in accordance with their ranked order, as determined under § 61.53. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding.

(b) In the event of a tie between applicants, VA will use the score from § 61.53(c) to determine the ranking.

(c) For those applicants selected to receive a technical assistance grant, VA will execute an agreement and make payments to the grant recipient in accordance with § 61.61.

(d) The amount of the technical assistance grant will be the estimated total operational cost of the technical assistance over the life of the technical assistance grant award as specified in the technical assistance grant agreement. Payments may be made for no more than the period specified in the Notice of Fund Availability.

(e) VA will not pay for sustenance or lodging for the nonprofit community participants or attendees at training conferences offered by technical assistance grant recipients; however, the grantee may use grant funds to recover such expenses.

(Authority: 38 U.S.C. 501, 2064)

§ 61.55 Technical assistance reports.

Each technical assistance grantee must submit to VA a quarterly report describing the activities for which the technical assistance grant funds were used, including the type and amount of technical assistance provided and the number of nonprofit community-based groups served.

(Authority: 38 U.S.C. 501, 2064)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554)

Subpart F—Awards, Monitoring, and Enforcement of Agreements

§ 61.61 Agreement and funding actions.

(a) *Agreement.* When VA selects an applicant for grant or per diem award under this part, VA will incorporate the requirements of this part into an agreement to be executed by VA and the applicant. VA will enforce the agreement through such action as may be appropriate, including temporarily withholding cash payments pending correction of a deficiency. Appropriate actions include actions in accordance with the VA common grant rules at 38 CFR parts 43 and 49 and the OMB Circulars, including those cited in § 61.66.

(b) *Obligating funds.* Upon execution of the agreement, VA will obligate funds to cover the amount of the approved grant/per diem, subject to the availability of funding. Payments will be for services rendered, contingent on submission of documentation in the form of invoices or purchase agreements and inspections, as VA deems necessary. VA will make payments on its own schedule to reimburse for amounts expended. Except for increases in the rate of per diem, VA will not increase the amount obligated for assistance under this part after the initial obligation of funds.

(c) *Deobligating funds.* VA may deobligate all or parts of funds obligated under this part:

(1) If the actual total cost for assistance is less than the total cost stated in the application; or

(2) If the recipient fails to comply with the requirements of this part.

(d) *Deobligation procedure.* Before deobligating funds under this section, VA will issue a notice of intent to terminate payments. The recipient will have 30 days to submit documentation demonstrating why payments should not be terminated. After review of any such documentation, VA will issue a final decision concerning termination of payment.

(e) *Other government funds.* No funds provided under this part may be used to replace Federal, state or local funds previously used, or designated for use, to assist homeless veterans.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

§ 61.62 Program changes.

(a) Except as provided in paragraphs (b) through (d) of this section, a recipient may not make any significant changes to a project for which a grant has been awarded without prior written approval from the VA National Grant and Per Diem Program Office. Significant changes include, but are not limited to, a change in the recipient, a change in the project site (including relocating, adding an annex, a branch, or other expansion), additions or deletions of activities, shifts of funds from one approved type of activity to another, and a change in the category of participants to be served.

(b) Recipients of grants involving both construction and non-construction projects must receive prior written approval from the VA National Grant and Per Diem Program Office for cumulative transfers among direct cost categories which exceed or are expected to exceed 10 percent of the current total approved budget.

(c) Recipients of grants for projects involving both construction and non-construction who are state or local governments must receive prior written approval from the VA National Grant and Per Diem Program Office for any budget revision which would transfer funds between non-construction and construction categories.

(d) Approval for changes is contingent upon the application ranking remaining high enough after the approved change to have been competitively selected for funding in the year the application was selected.

(e) Any changes to an approved program must be fully documented in the recipient's records.

(f) Recipients must inform the VA National Grant and Per Diem Program Office in writing of any key position and address changes in/of their organization within 30 days of the change, i.e., new executive director or chief financial officer, permanent change of address for corporate communications.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554).

§ 61.63 Procedural error.

If an application would have been selected but for a procedural error committed by VA, VA may reconsider that application in the next funding round. A new application will not be required for this purpose so long as there is no material change in the information.

(Authority: 38 U.S.C. 501)

§ 61.64 Religious organizations.

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in VA programs under this part. In the selection of service providers, neither the Federal Government nor a state or local government receiving funds under this part shall discriminate for or against an organization on the basis of the organization's religious character or affiliation.

(b)(1) No organization may use direct financial assistance from VA under this part to pay for any of the following:

(i) Inherently religious activities such as, religious worship, instruction, or proselytization; or

(ii) Equipment or supplies to be used for any of those activities.

(2) For purposes of this section, ''indirect financial assistance'' means Federal assistance in which a service provider receives program funds through a voucher, certificate, agreement or other form of disbursement, as a result of the independent and private choices of individual beneficiaries. ''Direct financial assistance'' means Federal aid in the form of a grant, contract, or cooperative agreement where the independent choices of individual beneficiaries do not determine which organizations receive program funds.

(c) Organizations that engage in inherently religious activities, such as worship, religious instruction, or proselytization, must offer those services separately in time or location from any programs or services funded with direct financial assistance from VA, and participation in any of the organization's inherently religious activities must be voluntary for the beneficiaries of a program or service funded by direct financial assistance from VA.

(d) A religious organization that participates in VA programs under this part will retain its independence from Federal, state, or local governments and may continue to carry out its mission, including the definition, practice and expression of its religious beliefs, provided that it does not use direct financial assistance from VA under this part to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide VA-funded services under this part, without removing religious art, icons, scripture, or other religious symbols. In addition, a VA-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members and otherwise govern itself on a religious basis, and include religious reference in its organization's mission statements and other governing documents.

(e) An organization that participates in a VA program under this part shall not, in providing direct program assistance, discriminate against a program beneficiary or prospective program beneficiary regarding housing, supportive services, or technical assistance, on the basis of religion or religious belief.

(f) If a state or local government voluntarily contributes its own funds to supplement Federally funded activities, the state or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this provision applies to all of the commingled funds.

(g) To the extent otherwise permitted by Federal law, the restrictions on inherently religious activities set forth in this section do not apply where VA funds are provided to religious organizations through indirect assistance as a result of a genuine and independent private choice of a beneficiary, provided the religious organizations otherwise satisfy the requirements of this part. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, or certificate, allowing the beneficiary to direct where funds are to be paid, or a similar funding mechanism provided to that beneficiary and designed to give that beneficiary a choice among providers.

(Authority: 38 U.S.C. 501)

§ 61.65 Inspections.

VA may inspect the facility and records of any applicant or recipient when necessary to determine compliance with this part or an agreement under § 61.61. The authority to inspect does not authorize VA to manage or control the applicant or recipient.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

§ 61.66 Financial management.

(a) All recipients must comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by OMB Circular A–133 and codified at 38 CFR part 41.

(b) All entities receiving assistance under this part must use a financial management system that follows generally accepted accounting principles and meets the requirements set forth under OMB Circular A–102, Subpart C, section 20, codified at 38 CFR 43.20, for state and local government recipients, or under OMB Circular A–110, Subpart C, section 21, codified at 38 CFR 49.21 for nonprofit recipients. All recipients must implement the requirements of the appropriate OMB Circular for Cost-Principles (A–87 or A–122 codified at 2 CFR parts 225 and 230, respectively) for determining costs reimbursable under all awards issued under this part.

(Authority: 38 U.S.C. 501)

§ 61.67 Recovery provisions.

(a) *Full recovery of capital grants.* VA may recover from the grant recipient all of the grant amounts provided for the project if, after 3 years after the date of an award of a capital grant, the grant recipient has withdrawn from the VA Homeless Providers Grant and Per Diem Program (Program), does not establish the project for which the grant was made, or has established the project for which the grant was made but has not passed final inspection. Where a recipient has no control over causes for delays in implementing a project, VA may extend the 3-year period, as appropriate. VA may obligate any recovered funds without fiscal year limitation.

(b) *Prorated (partial) recovery of capital grants.* If a capital grant recipient is not subject to recovery under paragraph (a) of this section, VA will seek recovery of the grant amount on a prorated basis where the grant recipient ceases to provide services for which the grant was made or withdraws from the Program prior to the expiration of the applicable period of operation, which period shall begin on the date shown on the activation document produced by the VA National GPD Program. In cases where capital grant recipients have chosen not to receive per diem payments, the applicable period of operation shall begin on the date the VA Medical Center Director approved placement at the project site as shown on the inspection documents. The amount to be recaptured equals the total amount of the grant, multiplied by the fraction resulting from using the number of years the recipient was not operational as the numerator, and using the number of years of operation required under the following chart as the denominator.

Grant amount (dollars in thousands)	Years of operation
0–250	7
251–500	8
501–750	9
751–1,000	10
1,001–1,250	11
1,251–1,500	12
1,501–1,750	13
1,751–2,000	14
2,001–2,250	15
2,251–2,500	16
2,501–2,750	17
2,751–3,000	18
Over 3,000	20

(c) *Disposition of real property for capital grantees.* In addition to being subject to recovery under paragraphs (a) and (b) of this section, capital grantees are subject to real property disposition

as required by 38 CFR 49.32 when the grantee no longer is providing services through a grant awarded under this part.

(d) *Recovery of per diem and non-capital grants.* VA will seek to recover from the recipient of per diem, a special need non-capital grant, or a technical assistance grant any funds that are not used in accordance with the requirements of this part.

(e) *Notice.* Before VA takes action to recover funds, VA will issue to the recipient a notice of intent to recover funds. The recipient will then have 30 days to submit documentation demonstrating why funds should not be recovered. After review of any such documentation, VA will issue a decision regarding whether action will be taken to recover funds.

(f) *Vans.* All recovery provisions will apply to vans with the exception of the period of time for recovery. The period of time for recovery will be 7 years. Disposition provisions of 38 CFR 49.34 apply to vans. Grantees are required to notify the VA National Grant and Per Diem Program Office for disposition of any van funded under this part.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

§ 61.80 General operation requirements for supportive housing and service centers.

(a) Supportive housing and service centers for which assistance is provided under this part must comply with the requirements of the current edition of the Life Safety Code of the National Fire Protection Association and all applicable state and local housing codes, licensing requirements, fire and safety requirements, and any other requirements in the jurisdiction in which the project is located regarding the condition of the structure and the operation of the supportive housing or service centers. Note: All facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code.

(b) Except for such variations as are proposed by the recipient that would not affect compliance with paragraph (a) of this section and are approved by VA, supportive housing must meet the following requirements:

(1) The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from the elements;

(2) Entry and exit locations to the structure must be capable of being utilized without unauthorized use of other private properties, and must provide alternate means of egress in case of fire;

(3) Buildings constructed or altered with Federal assistance must also be accessible to the disabled, as required by § 502 of the Americans with Disabilities Act, referred to as the Architectural Barriers Act;

(4) Each resident must be afforded appropriate space and security for themselves and their belongings, including an acceptable place to sleep that is in compliance with all applicable local, state, and federal requirements;

(5) Every room or space must be provided with natural or mechanical ventilation and the structures must be free of pollutants in the air at levels that threaten the health of residents;

(6) The water supply must be free from contamination;

(7) Residents must have access to sufficient sanitary facilities that are in proper operating condition, that may be used in privacy, and that are adequate for personal cleanliness and the disposal of human waste;

(8) The housing must have adequate heating and/or cooling facilities in proper operating condition;

(9) The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents and sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire;

(10) All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner;

(11) The housing and any equipment must be maintained in a sanitary manner;

(12) The residents with disabilities must be provided meals or meal preparation facilities must be available;

(13) Residential supervision from a paid staff member, volunteer, or senior resident participant must be provided 24 hours per day, 7 days per week and for those times that a volunteer or senior resident participant is providing residential supervision a paid staff member must be on call for emergencies 24 hours a day 7 days a week (all supervision must be provided by individuals with sufficient knowledge for the position); and

(14) Residents must be provided a clean and sober environment that is free from illicit drug use or from alcohol use that: could threaten the health and/or safety of the residents or staff; hinders the peaceful enjoyment of the premises; or jeopardizes completion of the grantee's project goals and objectives. Those supportive housing or service centers that provide medical or social detox at the same site as the supportive housing or service must ensure that those residents in detox are clearly separated from the general residential population.

(c) Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services needed by the residents of the project and the availability of such services, and make adjustments as appropriate. The recipient will provide evidence of this ongoing assessment to VA regarding the plan described in their grant application to include meeting their performance goals. This information will be incorporated into the annual inspection. Grantees must submit during the grant agreement period to VA, a quarterly technical performance report. A quarterly report must be filed once during each quarter and no later than January 30, April 30, July 30, and October 30. The report may be in any acceptable business format and must include the following information:

(1) A comparison of actual accomplishments to established goals for the reporting period and response to any findings related to monitoring efforts. This comparison will be on the same level of detail as specified in the program approved in the grant document. It will address quantifiable as well as non-quantifiable goals.

(2) If established goals have not been met, provide a detailed narrative explanation and an explanation of the corrective action(s) which will be taken, as well as a timetable for accomplishment of the corrective action(s).

(3) Other pertinent information, including a description of grant-related activities occurring during the report period. This may include personnel activity (hiring-training), community orientation/awareness activity, programmatic activity (job development). Also identify administrative and programmatic problems, which may affect performance and proposed solutions.

(4) The quarterly technical performance report will be submitted to the VA National GPD Program Liaison assigned to the project, with each quarterly report being a cumulative report for the entire calendar year. All pages of the reporting documents should have the appropriate grant number and signature, where appropriate. VA National GPD Program Liaisons will file the report and corrective actions in the administrative file for the grant.

(5) Between scheduled reporting dates, the recipient will also immediately inform the VA National GPD Program Liaison of any significant

developments affecting the recipient's ability to accomplish the work. VA National GPD Program Liaisons will provide grantees with necessary technical assistance, when and where appropriate as problems arise.

(6) For each goal or objective listed in the grant application, grantees will be allowed a 15 percent deviation of each goal or objective. If the deviation is greater than 15 percent in any one goal or objective, a corrective action plan must be submitted to the VA National GPD Program Liaison. Failure to meet goals and objectives may result in withholding of placement, withholding of payment, suspension of payment and termination as outlined in this part or other applicable Federal statutes if the goal or objective would impact the program's ability to provide a successful outcome for veterans.

(7) Corrective Action(s): When necessary, the grantee will automatically initiate a Corrective Action Plan (CAP). A CAP will be required if, on a quarterly basis, actual grant accomplishments vary by a margin of +/−15 percent or more from the planned goals and objectives. Please note that this is a general rule of thumb, and in some cases +/−15 percent deviations are beneficial to the program such as more placements into employment or training than planned, less cost per placement than planned, higher average wage at placement than planned, etc.

(8) All +/−15 percent deviations from the planned goals that have a negative impact on the grantee's ability to accomplish planned goals must be fully explained in the grantee's quarterly technical report and a CAP is to be initiated, developed, and submitted by the grantee to the VA Liaison for approval.

(9) The CAP must identify the activity or expenditure source which has the +/−15 percent deviation, describe the reason(s) for the variance, provide specific proposed corrective action(s), and a timetable for accomplishment of the corrective action. The plan may include an intent to modify the grant when appropriate.

(10) The CAP will be submitted as an addendum to the quarterly technical report. After receipt of the CAP, the VA National GPD Program Liaison will send a letter to the grantee indicating that the CAP is approved or disapproved. If disapproved, VA Liaison will make beneficial suggestions to improve the proposed CAP and request resubmission until CAP is satisfactory to both parties.

(d) A homeless veteran may remain in supportive housing for which assistance is provided under this part for a period no longer than 24 months, except that a veteran may stay longer, if permanent housing for the veteran has not been located or if the veteran requires additional time to prepare for independent living. However, at any given time, no more than one-half of the veterans at such supportive housing facility may have resided at the facility for periods longer than 24 months.

(e) Each recipient of assistance under this part must provide for the consultation and participation of not less than one homeless veteran or formerly homeless veteran on the board of directors or an equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project provided under this part. This requirement may be waived if an applicant, despite a good faith effort to comply, is unable to meet it and presents a plan, subject to VA approval, to otherwise consult with homeless or formerly homeless veterans in considering and making such policies and decisions.

(f) Each recipient of assistance under this part must, to the maximum extent practicable, involve homeless veterans and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services for the project.

(g) Each recipient of assistance under this part shall establish procedures for fiscal control and fund accounting to ensure proper disbursement and accounting of assistance received under this part.

(h) The recipient of assistance under this part that provides family violence prevention or treatment services must establish and implement procedures to ensure:

(1) The confidentiality of records pertaining to any individual provided services, and

(2) The confidentially of the address or location where the services are provided.

(i) Each recipient of assistance under this part must maintain the confidentiality of records kept on homeless veterans receiving services.

(j) VA may disapprove use of outpatient health services provided through the recipient if VA determines that such services are of unacceptable quality. Further, VA will not pay per diem where the Department concludes that services furnished by the recipient are unacceptable.

(k) A service center for homeless veterans shall provide services to homeless veterans for a minimum of 40 hours per week over a minimum of 5 days per week, as well as provide services on an as-needed, unscheduled basis. The calculation of average hours shall include travel time for mobile service centers. In addition:

(1) Space in a service center shall be made available as mutually agreeable for use by VA staff and other appropriate agencies and organizations to assist homeless veterans;

(2) A service center shall be equipped to provide, or assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, and transportation assistance;

(3) A service center shall provide other services as VA determines necessary based on the need for services otherwise not available in the geographic area; and

(4) A service center may be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to meet the requirements of this paragraph.

(l) Fixed site service centers will prominently post at or near the entrance to the service center their hours of operation and contacts in case of emergencies. Mobile service centers must take some action reasonably calculated to provide in advance a tentative schedule of visits (e.g., newspapers, fliers, public service announcements on television or radio). The schedule should include but is not limited to:

(1) The region of operation;

(2) Times of operation;

(3) Expected services to be provided; and

(4) Contacts for specific information and changes.

(m) Each recipient that provides housing and services must have a written disaster plan that has been coordinated with the emergency management entity responsible for the locality in which the project exists. The plan must encompass natural and man-made disasters.

(n) The recipient will inform within 24 hours its VA liaison of any sentinel events occurring within the program (i.e., drug overdose, death, injury).

(o) The grantee, or sub-grantee, will provide appropriate orientation and training to staff to enable them to provide quality services that are appropriate to homeless veteran or homeless special need veteran population.

(p) The grantee will maintain systematic participant enrollment information and participant tracking records designed to facilitate the uniform compilation and analysis of programmatic data necessary for verification of veteran status and case management, reporting, monitoring, and evaluation purposes.

(q) The grantee will also document in each participant record at a minimum:

(1) Family status.

(2) Verification of veteran status (DD214, Department of Veterans Affairs confirmation report and/or identification card).

(3) Education, employment history, and marketable skills/licenses/credentials.

(4) An Individual Service Plan (ISP) for each individual participant will be maintained in the participant case management record which contains the following:

(i) An assessment of barriers, service needs, as well as strengths; and

(ii) Specific services and referrals planned and benefits to be achieved as a result of program participation.

(5) Duration and outcome of supportive service.

(6) The grantee must verify service outcomes each calendar year quarter through the participant and provide documentation of this verification in the participant case management files.

(r) The grantee will ensure that no more than 25 percent of the grant awarded beds are occupied by non-veterans, or VA may take actions as appropriate to decrease the beds, grant amounts, or terminate the grant and seek recapture in the case of capital funding. To calculate the occupancy rate, divide the actual number of bed days of care for veterans eligible to reside in the project, by the total number of possible bed days of care (the previous 180 days from the most current 6 month period).

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0554).

§ 61.81 Outreach activities.

Recipients of capital grants and per diem relating to supportive housing or service centers must use their best efforts to ensure that eligible hard-to-reach veterans are found, engaged, and provided assistance. To achieve this goal, recipients may search for homeless veterans at places such as shelters, soup kitchens, parks, bus or train stations, and the streets. Outreach particularly should be directed toward veterans who have a nighttime residence that is an emergency shelter or a public or private place not ordinarily used as a regular sleeping accommodation for human beings (e.g., cars, streets, or parks).

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

§ 61.82 Participant fees for supportive housing.

(a) Each participant of supportive housing may be required to pay a participant fee in an amount determined by the recipient, except that such participant fee may not exceed 30 percent of the participant's monthly income after deducting medical expenses, child care expenses, court ordered child support payments, or other court ordered payments; nor may it exceed the program's set maximum rate or the HUD Fair Market Rent for that type of housing and its location, whichever is less. The participant fee determination and collection process/procedures should be documented in the grant recipient's operating procedures to ensure consistency, fairness, and accuracy of fees collected. The participant's monthly income includes all income earned by or paid to the participant.

(b) Retroactive benefit payments from any source to program participants, for the purpose of this part, may be considered income in the month received and therefore may be used in calculating the participant fee for that month.

(c) Participant fees may be used for costs of operating the supportive housing or to assist supportive housing residents' move to permanent housing, and must have a therapeutic benefit.

(d) In addition to a participant fee, recipients may charge residents reasonable fees for extracurricular services and activities (extracurricular fee) that participants are not required to receive under the terms of the grant award, are not paid for by VA per diem, or provided by VA. Extracurricular fees must be voluntary on the part of the participant.

(e) In projects funded under this part where participants sign agreements, VA treats the costs associated with participant eviction to be as unallowable.

(f) Use of participant agreements.

(1) Participant agreements must be between the grant recipient of record and the program participant.

(2) Participant agreements must be part of a therapeutic plan to increase self-determination and responsibility.

(3) Participant agreements must include a clause that allows program participants the ability to break the lease or program agreement without penalty for medical or clinical necessity.

(4) Participant agreements may not be used to exclude homeless veterans with little or no income from the program.

(5) Participant agreements and conditions must be fully disclosed to potential participants and acknowledged in writing by both parties.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

[FR Doc. 2013–04222 Filed 2–22–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 64

RIN 2900–AO35

Grants for the Rural Veterans Coordination Pilot (RVCP)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as a final rule, without change, the proposal to establish a pilot program known as the Rural Veterans Coordination Pilot (RVCP). The RVCP will provide grants to eligible community-based organizations and local and State government entities to be used by these organizations and entities to assist veterans and their families who are transitioning from military service to civilian life in rural or underserved communities. VA will use information obtained through the pilot program to evaluate the effectiveness of using community-based organizations and local and State government entities to improve the provision of services to transitioning veterans and their families. Five RVCP grants will be awarded for a 2-year period in discrete locations pursuant to a Notice of Funds Availability (NOFA) to be published in the **Federal Register**.

DATES: *Effective Date:* This final rule is effective March 27, 2013.

FOR FURTHER INFORMATION CONTACT: Karen Malebranche, Veterans Health Administration, Office of Interagency Health Affairs (10P5), 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 461–6001. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 5, 2010, the President signed into law the Caregivers and Veterans Omnibus Health Services Act of 2010 (2010 Act), Public Law 111–163. Section 506(a) of the 2010 Act, codified at 38 U.S.C. 523 note, requires VA to establish a pilot

Network Homeless Coordinator Listing

Name	Title/Program	City/State/Zip	Office Phone	E-mail
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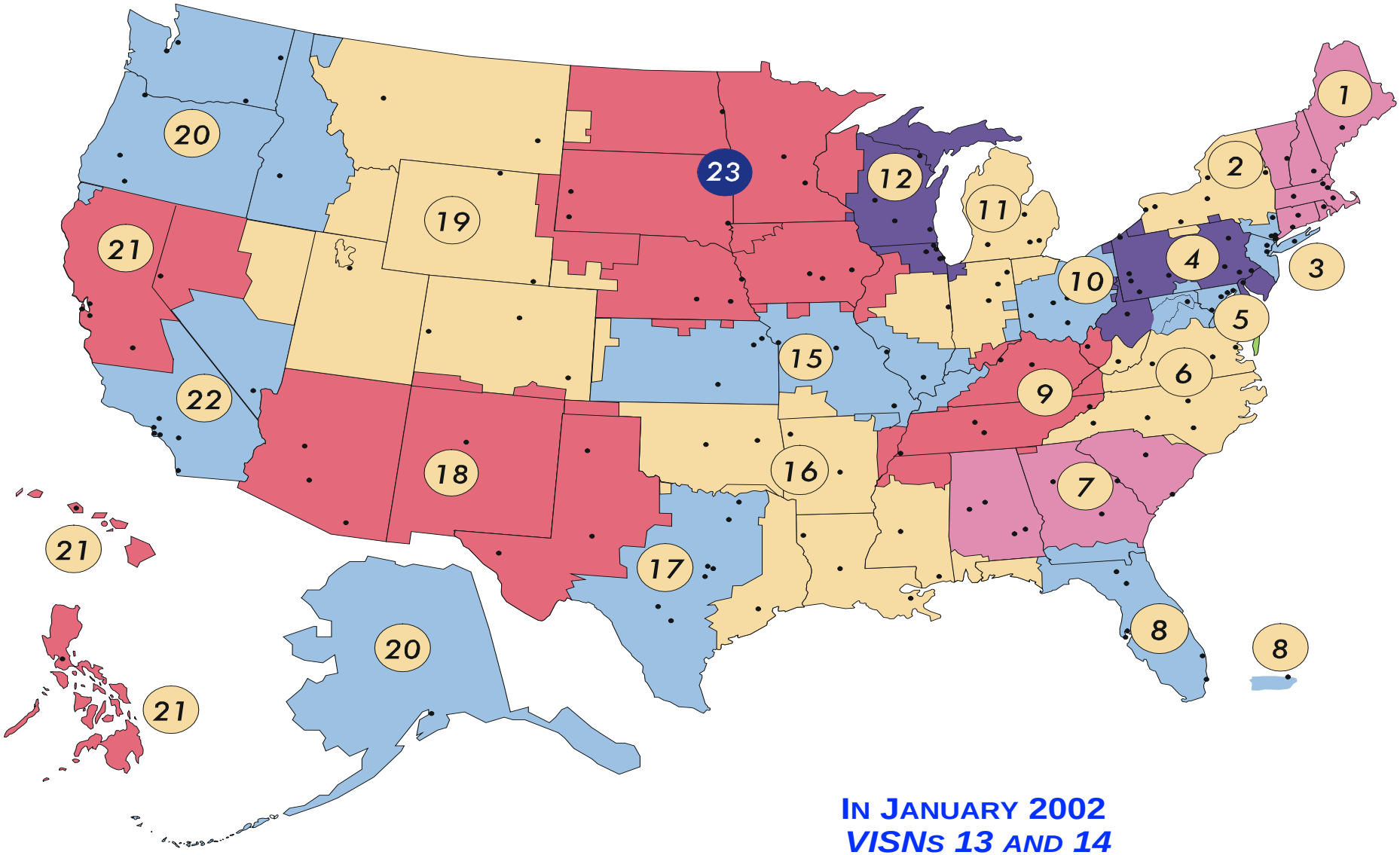
21 Veterans Integrated Service Networks (VISN)



In January 2002
VISNs 13 and 14
were integrated and
renamed *VISN 23*